

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**IN RE: NATIONAL PRESCRIPTION
OPIATE LITIGATION**

THIS DOCUMENT RELATES TO:

Cases Identified in Footnote 1

MDL No. 2804

Case No. 1:17-md-2804

Judge Dan Aaron Polster

**MOTION TO CORRECT
INADVERTENT OMISSION**

Moving Plaintiffs,¹ by Counsel, Baron & Budd, P.C., Levin, Papantonio, Proctor, Buchanan, O'Brien, Barr & Mougey, P.A., Farrell & Fuller, LLC, Powell & Majestro, PLLC, Hill, Peterson, Carper, Bee & Deitzler, PLLC, McHugh Fuller Law Group ("National Consortium"), move to correct the inadvertent omission from and request the Court's permission to join Plaintiffs' Omnibus Motion for Leave to Amend to Add Optum Defendants and Memorandum of Law in Support (ECF 5547) and Plaintiffs' Omnibus Motion for Leave to Amend to Add Express Scripts Defendants and Memorandum of Law in Support (ECF 5548). In support of this Motion, Moving Plaintiffs state as follows.

As this Court is aware, with respect to the fourteen motions for leave to amend filed by the PEC, members of the National Consortium were tasked with compiling the lists of *all* the MDL

¹ Troy, AL (1:18-op-45947), Chula Vista, CA (1:19-op-45750), Lassen County, CA (1:18-op-45609), Shasta County, CA (1:18-op-45651), Holmes County, FL (1:18-op-45456), Pensacola, FL (1:18-op-45331), Pratt County, KS (1:18-op-45451), Agawam, MA (1:18-op-45792), Aquinnah, MA (1:18-op-46091), Grafton, MA (1:18-op-45753), Hopedale, MA (1:18-op-45708), Newburyport, MA (1:18-op-45837), Palmer, MA (1:18-op-45812), Shirley, MA (1:18-op-45880), Swampscott, MA (1:18-op-45911), Wellfleet, MA (1:19-op-45556), Columbia County, PA (1:17-op-45068), Utah County, UT (1:18-op-46184), Wyandotte Nation, KS (1:19-op-45601).

plaintiffs who desired to amend their complaints to bring claims against certain defendants. This work was conducted by the National Consortium on behalf of the PEC *across the entire MDL*. In that regard, the National Consortium received responses from over 2,600 MDL Plaintiffs and compiled the lists of Plaintiffs seeking leave to amend attached to the various motions. *See, e.g.*, Doc. 5547 at Exhibit 1; Doc. 5548 at Exhibit 1. This was a complicated and labor-intensive task that involved coordination with hundreds of Counsel for MDL plaintiffs. Members of the National Consortium designed and ran complex algorithms to analyze 14 years of ARCOS data, comparing the 2006-2014 data with the 2015-2019 data to assess existing defendants and provide threshold analysis for all MDL plaintiffs across hundreds of DEA registrants and potential defendants. The project required extensive communication with all plaintiffs' counsel regarding data nuances and instructions for submitting their requests for leave to amend. Ultimately, the National Consortium created, collected, reported on, and prepared for filing over 2,600 Amendment responses and associated data for all MDL plaintiffs.

Separately, the National Consortium represents its own clients. With respect to the motions for leave to amend, the National Consortium also communicated with its over 700 clients to ascertain whether they wished to seek leave to join the fourteen motions for leave to amend. The National Consortium's clients were given an internal deadline to respond which was extended for one week to accommodate clients who needed more time to make a decision. The 19 Moving Plaintiffs responded during the extended period. Unfortunately, due to an administrative error, an earlier version of the National Consortium's client response spreadsheet was inadvertently used to create the exhibits to the PEC's motions that did not contain the Moving Plaintiffs. The Moving Plaintiffs now seek leave to correct this inadvertent omission and join the two motions for leave to bring claims against the PBM Defendants.

Moving Plaintiffs recognize that in granting two similar motions for other MDL Plaintiffs the Court stated that no further motions to correct inadvertent omissions would be granted. Doc. 5682 at p. 6. Nonetheless, the grounds which support allowing two previous plaintiffs to correct inadvertent omissions apply equally to Moving Plaintiffs, *see id.* at pp. 2-6, and additional good cause exists given the undersigned were tasked with compiling information concerning the amendment process case-wide, for the entire MDL. The Moving Plaintiffs requested leave from the PBM Defendants which was refused. To the extent the PBM Defendants need additional time to respond to the motions for leave to amend concerning Moving Plaintiffs, Moving Plaintiffs will consent to an extension of the time to file any response addressing their request for leave to amend.

Date: November 8, 2024

RESPECTFULLY SUBMITTED,

/s/ Paul T. Farrell, Jr.

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CERTIFICATE OF SERVICE

I hereby certify on this 8th day of November, a true and correct copy of the foregoing document has been served upon all parties so registered via the Court's electronic filing system.

/s/ Anthony J. Majestro
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